



SHERWOOD CITY COUNCIL MEETING MINUTES
22560 SW Pine St., Sherwood, Or
February 25, 2014

WORK SESSION - JOINT SESSION WITH CHARTER REVIEW COMMITTEE

1. **CALL TO ORDER:** Council President Henderson called the meeting to order at 6:02 pm.
2. **COUNCIL PRESENT:** Council President Linda Henderson, Councilors Dave Grant, Robyn Folsom, Krisanna Clark, Bill Butterfield, Matt Langer and Mayor Bill Middleton via conference call.
3. **CHARTER REVIEW COMMITTEE PRESENT:** Citizen at Large Chair Pat Allen, Budget Committee Representative Vice Chair Neil Shannon, Library Advisory Board Representative Jack Hoffbuhr, Parks Advisory Board Representative Brian Stecher, Citizen at Large Bob Silverforb, SURPAC Representative Charlie Harbick, Planning Commission Representative Beth Cooke, Cultural Arts Commission Representative Alyse Vordermark, Citizen at Large Jennifer Kuiper and Citizen at Large Alternate Renee Brouse.
4. **STAFF AND LEGAL COUNSEL PRESENT:** Joseph Gall City Manager and Sylvia Murphy City Recorder. Attorney Ed Sullivan.
5. **TOPICS**

A. Joint session with Charter Review Committee

Charter Review Committee Chairman Patrick Allen gave a brief overview of the how the committee approached this work. He said the first few meetings they discussed the Charter generally and identified basic principles and values and decided to focus on the issues that needed to get on the ballot by the May election that would affect the November election. He said they did not deal with clean up language and will more than likely have a Charter clean up amendment at a later date. He said they wanted to keep the first amendments simple, direct and substantive. He also noted that the Committee, with the approval of the Council, sought outside legal counsel.

He said there are 5 recommended ballot titles and referred to the meeting packet. He stated the proposed revisions removes "by position" language adopted in 2005. He explained the committees discussions and provided a summary of the arguments and said they decided an election of the most popular vote getters made the most sense. He commented on the dissatisfaction with the existing system as it may be unnecessarily confrontational and may lead to fewer candidates. He asked for questions.

Councilor Langer asked if they had a discussion about regional or geography based elections. Chairman Allen said they did consider geography based systems such as wards or bureaus but decided Sherwood is not large enough. Discussion followed about the geography based elections and the Committee noted that neighboring communities that have wards suffer from vacancies. Chairman Allen noted that this discussion was raised during the citizen comments and described the process the Committee used to involve the public with public comment periods and a workshop.

Chairman Allen introduced Exhibit C (see record) as a proposed ballot title addressing Council Rules to amend the Charter by removing language of: "The council must by resolution adopt rules to govern its meetings" and substituting: "In January after each general election, the council shall adopt rules by resolution." He noted that they do not address the content of the rules and they tried to look at the Charter as a constitutional document rather than a statutory document.

Chairman Allen introduced Exhibit E (see record) as a proposed ballot title to amend and add language of: "The council shall afford an opportunity for general public comment at each regular meeting." He commented on the notion of transparency and accountability in terms of accepting public comment. He said the Council can address the specifics such as when to accept comment and the length of the comments in their rules.

Chairman Allen introduced Exhibit G (see record) as a proposed ballot title regarding term limits for the Council members. He commented on the discussions and said they came to a consensus of 3 consecutive term limits for Council members and not for the Mayor. He said they heard that 3 consecutive term limits was too long but for those that were opposed to term limits they approved of the length. He said the Committee decided that because the Mayor serves a 2 years term there is not a need for term limits as the position is in a perpetual election mode. He said he was on the losing side of this issue and asked if any Committee member wanted to comment. Neil Shannon commented that having the Mayor serve a 2 year term allows a majority of the Council to be up for election every two years.

Councilor Grant commented on 3 consecutive terms and said he expected this to be shorter and he commented that it is a good idea.

City Manager Gall said they need to address the definition of term limits and partial terms and said the attorney has provided additional language to consider. He asked if this passes are the current member going to be affected. He provided examples and said they need to address transitional language. Discussion followed regarding transition language and the need to keep it simple.

Chairman Allen introduced Exhibit I (see record) as a proposed ballot title pertaining to Vacancies and Filling Vacancies. He said the amendment would do four things: 1) adds a provision when one gets elected to a different City office, their office then becomes vacant; 2) amends a provision regarding absences from the City by removing language of "from three consecutive regular council meetings" and replacing with "all meeting in a 60 day period"; 3) amends a provision "a mayor or councilor vacancy will be filled by an election if 13 months or more remain in the office term" by adding "or by appointment of the majority of the council within 45 day if less than 13 months remain"; and 4) amends a provision by replacing "may be" to "shall be" to read: "A mayor or council vacancy shall be filled by appointment by a majority of the remaining council members". He said they spent a lot of time considering various

possibilities regarding vacancies and noted that some of the recommended changes are substantive and some are clean up.

Chairman Allen asked the City Recorder to discuss the timeline. Ms. Murphy said the 5 ballot titles and 5 explanatory statements need to be adopted in a regular City Council meeting and can be amended at that time but requested the Council be very clear on what is to be amended. She said if the Council decides to adopt any or all of the ballot titles they need to adopt by a resolution and provide her with the adopted ballot titles by Friday, February 28th by 5:00 pm according to Oregon State Election Law. She said the next step is to notice the information in a newspaper of general circulation for a 7 day challenge period. She noted if there are no challenges after 7 days she will then file the ballot titles with the Washington County Elections Office by March 20, 2014.

Chairman Allen noted that the Committee also considered veto language and the issue of compensation and summarized those discussions. He stated that the Committee will come back and look at the remaining chapters of the Charter and will likely present additional ballot titles for future elections. He thanked the Committee for all of their work.

Mayor Middleton ended the conference call at 7:02 pm.

Councilor Henderson commented on the work of the Committee and the volume of work the City Recorder performed and thanked them for their service.

Ed Sullivan introduced himself as the outside legal counsel that was hired to review the draft ballot titles and explanatory statements.

Council President Henderson adjourned the work session at 7:05 pm and convened to a regular council meeting.

REGULAR CITY COUNCIL MEETING

1. **CALL TO ORDER:** Council President Henderson called the meeting to order at 7:20 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **COUNCIL PRESENT:** Council President Linda Henderson, Councilors Dave Grant, Krisanna Clark, Robyn Folsom, Bill Butterfield, Matt Langer and Mayor Bill Middleton via conference call.
4. **STAFF AND LEGAL COUNSEL PRESENT:** Joseph Gall City Manager and Sylvia Murphy City Recorder. Attorney Ed Sullivan.
5. **PUBLIC HEARINGS**
 - A. **Resolution 2014-013 Approving Ballot Titles and Explanatory Statements and submitting proposed Charter amendments to City voters**

Council President Henderson stated the resolution before the Council would refer Charter amendments to the voters in the May 2014 election. She commented that the adopted resolution needs to be

delivered to the City Recorder by Friday, February 28 at 5:00pm and the recorder needs to get the information properly noticed and to the Washington County Elections Office by March 20. She asked Chairman Allen and Vice Chairman Shannon to come forward.

City Manager Gall introduced Attorney Ed Sullivan as the outside legal counsel that was recently brought into the process and explained the decision to seek outside legal counsel on this issue. He said Mr. Sullivan just came on board late last week. He said the Charter Review Committee has been meeting regularly since December and have been considering the two sections of the Charter that deal with election related issues in order to meet the deadline and have the amendments before the voters in the May 2014 election. He said they have met their goal and have come forward with 5 separate ballot titles.

Chairman Allen and Vice Chairman Shannon provided a brief background and introduced the nine members of the committee.

Chairman Allen commented on the process and said they decided to focus on the areas related to elections first in order to meet the timeline for the May 2014 election. He said the proposed changes are substantive and simple. He commented that they focused their consideration on the following areas: improve transparency, improve access, improve accountability, and to keep the nature at a constitutional level. He referred to the decision to seek outside counsel and stated that it has been helpful. He stated they will go forward and look at the other chapters of the Charter. He commented on the decision to propose five separate ballot titles and the Council's discretion to adopt what they wanted.

Chairman Allen introduced the first ballot title as Exhibit A in the packet which deals with the method of electing Councilors and stated that we now elect Council members by position and they are recommending reverting to the prior system where all of the candidates are on a single ballot and the top vote getters are elected to the Council. He said they spent a fair amount of time considering this issue and summarized the discussions. He said they felt this current position method is confrontational as you pick a seat you want to run against and decided single ballot will encourage the most participation.

Chairman Allen referred to the second ballot title as Exhibit C in the packet which deals with the Council Rules and stated that they have Council Rules now but not a built in process that requires review of adopted rules by the newly elected body after a general election. He said they recommend a provision that would require Council to adopt rules by resolution after each general election. He referred to the notion of being constitutional as opposed to substantive.

Chairman Allen introduced the third ballot title as Exhibit E in the packet which considers Public Comment. He referred to concerns they heard about Council accepting public comments and said the Committee proposed adding language of: "The council shall afford the opportunity for general public comment at each regular meeting". He said they considered how prescriptive they wanted to be and decided to leave it at the council's discretion.

Chairman Allen referred to the fourth ballot title as Exhibit G in the packet which deals with term limits. He stated the Committee is recommending establishing term limits but noted there was disagreement on this issue and they came to a consensus on a limit of no more than three consecutive terms for councilors. He responded to early concerns that this does not include any phase-in language, therefore

if it passes in May Council member that have served three terms may not be eligible to run for a fourth term in November. He also noted that this term limit includes partial terms. He commented on discussions regarding the Mayor's term and said the Committee did not recommend adding term limits or changing the length of the term.

Council President Henderson referred to the third sentence in the summary section of Exhibit G and asked if "*irrespective of*" would be at the end of the sentence. Chairman Allen responded yes. Ms. Henderson asked if that would be confusing to the voter. Chairman Allen said that change is to ensure continuous representation but that merits more explanation.

Chairman Allen referred to the last ballot title, Exhibit I in the packet regarding Vacancies and Filling Vacancies. He said the Committee is proposing a few things to improve the Charter and first is to clarify that if you are elected to a different City office that creates a vacancy. He stated they are proposing to tighten up the language regarding nonattendance from meetings without approval from the Council to state: "all meetings in a 60 day period." He said they are also proposing a time limit to act and fill vacancies which requires an appointment within 45 days if less than 13 months remain in the office term. He noted they changed "may be" language to "shall be".

Council President Henderson asked the Council if they would like to take public testimony at this time and with no objections she opened the public hearing and asked the City Recorder to read the public hearing statement.

Ms. Henderson asked the Council if they would be willing to change the 4 minute comment period to 6 minutes as there are five ballot measures under consideration. With no objections she asked for public comment.

Anthony Bevel, Sherwood resident came forward and said three terms for Council is way too long and two terms are adequate. He commented that 12 years in a volunteer position is a lot and noted that people get stale.

With no further comments Council President Henderson closed the public hearing and asked Chairman Allen and Vice Chairman Shannon to come forward for a rebuttal and questions from the Council.

Chairman Allen responded that the three consecutive term limits is a result of a compromise between those who felt that two term limits were appropriate and those that felt that the term limit is 4 years and if the voters get to say in an election they want to keep the member in office that is their call. He said this was a compromise that both sides could live with and he recommended putting this ballot title before the voters.

Council President Henderson referred to Exhibit B on page 6 of the packet and read the fourth paragraph stating: "The measure would return city elections to the former election process in which candidates did not indicate position numbers but instead, candidates would file to run for the city council and the candidates with the most votes from the electorate would be elected a City councilors to fill the vacant seats". She suggested that a seat is not always vacant and asked if they would consider amending and changing the word vacant to *available* or *open*. The Council agreed to change the word to *open*.

Mr. Sullivan recommended that Council come forward with all of their suggested revisions first then proceed with an amendment. Councilor Henderson said that was her only suggestion.

Mr. Sullivan said there are two other issues. He referred to the concern that section 29 is awkward and suggested starting the sentence with: "Notwithstanding any applicable term limits imposed by this charter" and remove the language in bold at the end. He said this makes it less awkward and reads as: *"Notwithstanding any applicable term limits imposed by this charter, the term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office."*

Mr. Sullivan said the second issue concerns Section 24 regarding the definition of a term and whether partial terms count towards term limits. He referred to an email from the City Attorney Chad Jacobs with two alternatives, (see record, Exhibit 1).

Chairman Allen approached the Council and said as the Committee considered term limits and decided on the compromise of three consecutive terms, they considered partial terms as a term.

Councilor Grant commented that it is not uncommon that people are appointed to Council with only a few months remaining in the term which would support the three consecutive terms as opposed to a limit of only two terms. He agreed that the partial term should count as a term.

Councilor Clark referred to the first section and said it seems to be opposite of what the Committee is recommending and she would be opposed it. She referred to the second ballot title on term limits and agreed with the Committee and recommended approving this version and inserting the word *shall*.

Mr. Sullivan asked if the Council wanted language to read "any partial term counts toward term limits" or language regarding a two year break off point. Discussion followed and the Council asked for the Committees opinion.

Chairman Allen stated that the intent of the Committee was that any partial term counted as a term and suggested that if you change the language to two years of a partial term you could have the potential for someone to be in office for three terms and two years of a partial term which would be 14 years and that was not the Committee's intent.

Mr. Gall commented on the options presented by the City Attorney and said there are several scenarios and referred to the second scenario which effects Councilors currently in office. He commented regarding clarifying the language.

Mr. Sullivan referred to Section 24 as proposed to be amended and said it reads: *"At each general election, three councilors will be elected for four-year terms. No councilor shall serve on the council more than three consecutive terms"* and suggested adding *"including any partial term as a councilor"*. The Council agreed.

Mr. Sullivan recapped the three items that the Council wanted changed: to amend the explanatory statement on positions to strike *"vacant"* and add *"open"*, to add *"Notwithstanding any applicable term limits imposed by this charter"* to the beginning of section 29, to add *"including any partial term as a*

councilor” to section 24. Mr. Sullivan asked for a 20 minute recess to amend the language in the ballot titles and the explanatory statements.

Councilor Folsom asked if the changes included transition language. Mr. Sullivan said that there is no transition language and said the terms will apply across the board retroactively. He said that he can put retroactive language in the explanatory statement.

Ms. Murphy asked if the Council wanted to revise the other ballot titles. Council did not.

Council President Henderson called for a recess at 8:02 pm and reconvened at 8:55 pm.

Mr. Sullivan presented the Council with amended documents (see record, Exhibit 2) and said he would go over only the areas that have been changed. He referred to the ballot title concerning positions and said the last paragraph has been changed to read “The former election process did not indicate position numbers so that candidates would file and the individuals receiving the most votes would be elected to fill open city council seats” with the word “open” added. He referred to the explanatory statement regarding positions and said in the fourth paragraph, it has been changed to read: “The measure would return city elections to the former election process in which candidates did not indicate position numbers but, instead, candidates would file “for” and said to strike “for”. He continued reading “to run for the city council and the candidates with the most votes from the electorate would be elected as City Councilors to fill the open seat” with the word “vacant” removed and “open” added.

He said the third change would be to Exhibit G in the packet concerning term limits and said the second paragraph has been changed to read: “Amend the current city charter Chapter 7, Section 24-Councilors by removing unnecessary language and adding the provision of: “No councilor shall serve on the council more than three consecutive terms” and adding ,”*including any partial term as a councilor.*”

He stated that Section 29 would be amended to read: “Amend Section 29-Terms, by adding the following to the beginning of the section: “*Notwithstanding any applicable term limits imposed by this charter*”. He referred to the explanatory statement for term limits and said the fourth paragraph would be amended to read: “The measure would amend Section 24 to read in its entirety: “At each general election three councilors will be elected for four-year terms. No councilor shall serve on the council more than three consecutive terms, *including any partial term as a councilor. The term limits imposed by this charter amendment would apply to the terms of the councilors not in office.* He said two paragraphs down the changes read: “This measure would amend Section 29-Terms, *to read as follows: Notwithstanding any applicable term limits imposed by this charter*, the term of any officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office”. He referred the Council to the amended Exhibit K which shows all of the proposed amendments to the charter. He recapped the changes to Section 24 and Section 29.

Mr. Sullivan said if this is what the Council wants they need to approve Resolution 2014-013 with the revision by the special appointed City Attorney regarding Exhibits A, B, G, H, and K.

Councilor Grant asked if they needed to do a special resolution for the amendments. Mr. Sullivan said no. The following motion was received.

MOTION: FROM COUNCILOR GRANT TO ADOPT RESOLUTION 2014-013, SECONDED BY COUNCILOR CLARK. MOTION PASSED 7:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR.

The City Recorder stated the Council needed a motion to amend to accept the new exhibits.

MOTION TO AMEND: FROM COUNCILOR GRANT TO AMEND RESOLUTION 2014-013 WITH APPROVED AMENDMENTS, SECONDED BY COUNCIL PRESIDENT HENDERSON. MOTION PASSED 7:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR.

MOTION: FROM COUNCILOR GRANT TO ADOPT RESOLUTION 2014-013 AS AMENDED, SECONDED BY COUNCIL PRESIDENT HENDERSON. MOTION PASSED 7:0, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR.

Council President Henderson thanked the Charter Review Committee and discussed various forms of communication to get the information to the voters for the May 20, 2014 election. She encouraged Councilors to take a summary to the Boards and Commissions and talk to their neighbors and other groups to improve voter turnout.

Councilor Grant stated he would like to walk-on a resolution regarding an issue pertaining to the Council Liaison to the Chamber of Commerce.

Council President Henderson clarified a walk-on resolution and Councilor Grant indicated it is not on the agenda.

Councilor Grant stated the following motion.

MOTION: FROM COUNCILOR GRANT TO ADOPT A RESOLUTION TO APPOINT COUNCILOR LANGER TO SERVE IN THAT ROLE AS LIAISON TO THE CHAMBER UNTIL JANUARY 2015, SECONDED BY COUNCILOR BUTTERFIELD.

Prior to calling for a vote, Council President Henderson acknowledged that there was a motion on the table and a second and said she was hoping to wait until the Mayor returned to be able to talk about this on March 4th. She said she would not ignore there is a motion on the table with a second and called for a vote. Prior to completing the receipt of the vote, the Mayor asked for clarification on what was being voted upon.

The City Recorder clarified that Councilor Grant has made a motion that has been seconded for Council to act and move in a certain direction. She said Councilor Grant identified it as a walk on resolution but there is no legislation so the motion is to move forward with an action of the Council. She said the motion was to appoint Councilor Langer as a liaison to the Chamber, with a second to the motion from Councilor Butterfield and Council President Henderson has called for a vote on the motion.

Mayor Middleton stated that the rules state that the Mayor is the only one that can make appointments and must be voted on by the rest of the council and he can solely make the nomination.

Ms. Murphy clarified for the record and asked Mayor Middleton if he is referring to the Council Rules. He said he believes so and said the Mayor is the one to bring forward who will be on a committee and it is not the council's decision.

Councilor Grant called for a point of order and stated there is a motion and a second.

Council President Henderson referred to page 10 of the Council Rules and said it states the Mayor will appoint Councilors to liaison positions to city commissions, and committees including ad hoc or limited term committees as the mayor deems necessary. She said she is not advocating for or against the position but as she reads it, the Chamber is not a City board or commission or a committee.

Mayor Middleton stated they are an ad hoc committee and Council President Henderson said ad hoc refers to a temporary committee.

Mayor Middleton stated that there is still no authority anywhere allowing to do this.

Council President Henderson said that she cannot debate via conference call and said that is why she wanted to wait until March 4. She said this is a non-city board or commission.

Mayor Middleton commented that the City does provide the Chamber with about \$7000 per year and understand they are not a part of us, but if we are going to have a commission it has to go through the same process as the other commissions.

Councilor Langer said that it is not a City Board or Commission and appointments are made by the Mayor with the consent of the Council and this is a step that is missed here, no council consent has been given.

Mayor Middleton replied they don't have the authority and it did not matter as they have not been appointed by the mayor. He said you would be making up something different and he did not think it could be done.

Councilor Langer said the mayor does not have the authority to appoint to the Chamber as they are not a City board or commission.

Mayor Middleton stated if they wanted to act and put a person on there as a board member, then they would have to fall under the guidelines of other City board members.

Councilor Clark said she believes what the mayor is saying is that they don't have the authority as a council to assign a liaison that represents the council, only the mayor has that authority.

Discussion followed regarding the council members not having the authority, the Chamber not being a City committee, and reference was made to the council rules. Examples were given of past practices of selecting liaisons and appointing liaisons to other non-City organizations.

Councilor Grant called for the question and Councilor Clark stated she was appointed by the mayor and referred to her past participation at chamber events. Discussion followed and Mayor Middleton stated

this was not the time for discussion and would like to receive a legal opinion and said he doesn't believe this is the way the process is meant to work.

Councilor Grant asked for a vote to be called and Councilor Clark indicated she believes this is a position of service and she is happy to serve wherever the mayor wants her to serve as this is the way the council rules read.

Council President Henderson called for a vote on the motion.

VOTE: motion passed 4:3 (Grant, Langer, Butterfield and Folsom voting in favor. Clark, Henderson and Middleton voting against).

Additional comments were heard on the process and timeline to address the business and Ms. Henderson replied the Council can discuss this in the future and adjourned the meeting.

5. ADJOURN

Council President Henderson adjourned the meeting at 9:14 pm.

Submitted by:

Sylvia Murphy, MMC, City Recorder

Bill Middleton, Mayor